



Personal Property Preparing for March 1, 2014

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Today's Class Will Cover:

- March 1, 2014 Assessment Year
- Changes Since Last Year
- Statutory Authority & Duties
- Audit Procedures
- Questions & Answers



General Concepts



Self Assessment System

- Taxpayer is responsible for reporting assessment.
- Assessors do not have the authority to file a return for the taxpayer; however, the assessor can assist the taxpayer.
- The taxpayer MUST sign the return.
50 IAC 4.2-2-9 (e)



Personal Property Defined

50 IAC 4.2-1-1.1(g)

- (g) “Depreciable personal property” means all tangible personal property that is used in a trade or business, used for the production of income, or held as an investment that should be or is subject to depreciation for federal income tax purposes.



Federal Guidelines on the Depreciation of Assets

- “Depreciation may not be claimed until the property is placed in service for either production income or use in a trade or business. Depreciation of an asset ends when the asset is retired from service by sale, exchange, abandonment or destruction.”
- US Master Depreciation Guide, Chapter 3



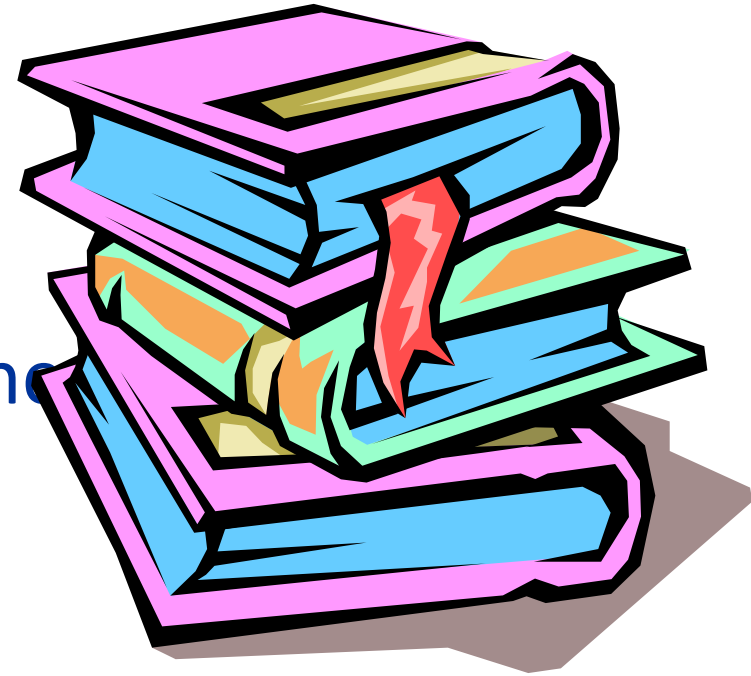
Real vs. Personal Property

- The determination of whether an asset is to be assessed as real or personal property, or as an intangible asset or is subject to excise tax is an important aspect of verifying the correctness of a return.



Real vs. Personal Property

- Personal Property Manual
- Rule 4 – Section 10
 - (50 IAC 4.2-4-10)
- 2012 Real Property Guidelines
 - Chapter 1, Table 1-1





Real vs. Personal Property Examples

- Boilers:
 - Manufacturing process – Personal
 - Building service – Real
- Foundations for machinery & equipment – Personal
- Gas lines for equipment or processing – Personal



Real versus Personal Property Examples (cont'd)

- Lighting:
 - Yard – Personal
 - Special purpose, inside – Personal
- Piping used in a process – Personal
- Pits for equipment or processing – Personal
- Power lines and auxiliary equipment – Personal



Excise Tax or Personal Property

- Language was added to our administrative rule (50 IAC 4.2) which stated that non-automotive equipment attached to excise vehicles is classified as personal property.
- Through the joint efforts of the DLGF, the BMV, and the DOR-Motor Carrier Division, a memorandum on the topic was released on March 3, 2011.



Excise Tax or Personal Property

- A fundamental question to consider when making this determination involves the vehicle's "intended service use" and the equipment's function.
- Was the vehicle hauling a product from Point A to Point B or was a secondary service unrelated to the transportation aspect performed once the vehicle arrived at its destination?



Filing Requirements

- Anyone who owns, controls, or possesses personal property with a tax situs within the state must file a return.
- Possessory Interests (50 IAC 4.2-2-4): requires a taxpayer who holds or controls personal property on the assessment date to disclose whether they are liable for the taxes or if the owner is liable for the taxes.



Frequently Asked Question

- Question: If my business closed or I moved out of the county, do I have to file a return and inform the assessor of that?
- Answer: While the statutes do not require it, it could be helpful for the taxpayer to notify the assessor of this type of change since the assessor could assume the taxpayer simply failed to file a return and place an estimated assessment on the business.



Common Personal Property Forms

- Form 102
- Form 103 Long, Short, & Single Return
- Form 104
- Supplemental Forms
- Forms available on DLGF Webpage,
<http://www.in.gov/icpr/webfile/formsdiv/2544.htm>



Form 102

- Form 102 – Farmer's Tangible Personal Property Tax Return
- Is used by farmers to report their tangible depreciable personal property.
- This form is **CONFIDENTIAL**



Form 103

- Three versions:
 - Form 103-Short
 - Form 103-Long
 - Form 103-SR (Single Return)
- All three versions are **CONFIDENTIAL**



Form 103-Short

- Can be used by a taxpayer to report their tangible business personal property if:
 - the taxpayer is not a manufacturer or processor.
 - the assessment does not exceed \$150,000.
 - the taxpayer is not claiming any exemptions, deductions, or special adjustments.
- The use of this form is an election and not mandatory for all small businesses.
- Taxpayers can file the Form 103-Long one year and file the Form 103-Short the following year if they are eligible.



Form 103-Long

- Filed:
 - by any business (large or small) including manufacturers or processors.
 - by taxpayers who are claiming exemptions, deductions, or special adjustments .
- Taxpayer must file in duplicate when assessed value is greater than \$150,000. IC 6-1.1-3-7(c)
- Both copies are held at the county level, if need be. If a taxpayer does not provide a duplicate copy, the county can determine if one is required.



Form 103-SR (Single Return)

- Filed:
 - by any taxpayer with more than one location within a county and less than \$1,500,000 in assessed valuation.
 - by taxpayers who are not claiming exemptions, deductions, or special adjustments.
- Assessors can refuse to accept it if it is incomplete but they cannot refuse the form because they would prefer the Form 103-Short is used in its place.



Supplemental Forms

- Examples:
 - Form 103 ERA (tax abatement)
 - Form 103 EL (tax abatement)
 - Form 103-N (not owned/leased)
 - Form 103-O (owned/leased)
 - Form 103-T (special tooling)
 - Form 103-P (pollution control)



Retention Schedule of Forms

- Question: How long are we required to keep personal property returns?
- Answer: The Indiana Commission of Public Records (ICPR) says that personal property returns can be destroyed after five (5) calendar years and after receipt of State Board of Accounts Audit Report and satisfaction of unsettled charges. Each county has a Public Records Commission so an assessing official should consult with them before destroying any of these records.



Retention Schedule of Forms

- Answer (continued): This does not mean that an official must destroy these records after five years, only that he/she can begin the process of destroying them after five years have passed, if desired. Sometimes an assessor may desire to maintain personal property assessment records which contain a ten-year tax abatement deduction in case future reference is warranted. Records retention schedules are available via schedules.icpr.IN.gov. Look for the County/Local Government section, select the Office-Specific Retention Schedule, and select Assessing Official.



Form 103-N & Form 103-O

- IC 6-1.1-2-4
- The owner of any tangible property on assessment date is liable for taxes.
- A person owning, holding, possessing, or controlling any tangible property is liable for taxes unless they establish the property is being assessed in the name of owner.



Operating Leases

- Operating leases remain the property of the leasing company at end of the lease.
- Lessee (Possessor) Must File Form 103-N Schedule 1
- Lessor (Owner) Must File Form 103-O Schedule 1



Capital Leases

- Title to asset will transfer at end of lease or the lease contains a purchase option and title can transfer at end of lease.
- Lessee (Possessor) Must File Form 103-N Schedule 2
- Lessor (Owner) Must File Form 103-O Schedule 2



Frequently Asked Question

- Question: Who gets assessed for the equipment leased to a church, school, or other non-taxable entity?
- Answer: You will need to identify the type of lease (capital or operating) before a determination can be made.
- Operating leases – assessed to owner
- Capital leases – assessed to possessor



Assessor Duties

- Furnish Forms (Order the forms, pay for the printing costs, & make available.)
- Review Returns & Verify Accuracy
- Notify Taxpayer of Changes in Assessment on Form 113/PP
- Pick Up Omitted and Undervalued Assessments
- Process Requests for Filing Extension



Filing Extension IC 6-1.1-3-7 (b)

- The township assessor or the county assessor may grant up to a 30 day extension to file a return (up to June 14).
- The taxpayer must provide a written request for extension on or before May 15 to the assessor.



Filing Extension

- The assessor must provide a written response granting or denying the taxpayer's request.
- If denying the request, do not delay in notifying the taxpayer.
- The decision to deny this request cannot be appealed.



Omitted & Undervalued Assessments

- The assessor shall examine and verify the accuracy of each personal property return to ensure that no property has been omitted or undervalued. IC 6-1.1-3-14



Omitted & Undervalued Assessments

- The assessing official **MUST** give the taxpayer written notice of the change and a statement of the taxpayer's right to appeal by use of the Form 113/PP. IC 6-1.1-3-20
- Failure to timely change a personal property assessment is an issue that has been challenged through the appeal's process with the taxpayer contending that the change in assessment was untimely & therefore invalid.



Assessment Calendar

- The taxpayer files a return by May 15 or the extended due date.
- The township assessor, if any, has until September 15 or 4 months from the extended due date to make any changes to the assessment.



Assessment Calendar

- Both the county assessor and the county board of appeals (PTABOA) have until October 30 or 5 months from the due date to change an assessment.
- This time limitation applies to the review function of the PTABOA under IC 6-1.1-16 and not the appeals function under IC 6-1.1-15. See also 50 IAC 4.2-3.1-7 (e)



Assessment Calendar

- Taxpayer has until May 15 of the following year or 12 months from the extended due date to amend the original personal property return.
- The county assessor and the PTABOA have five months from the filing date to review the amended return.



Budget Calendar

- On or before June 1 – A township assessor, if any, shall deliver a list which states the total assessed value of timely filed personal property assessments to the county assessor. IC 6-1.1-3-17 (a)
- On or before July 1 – A county assessor shall certify the assessed value for personal property to the county auditor. IC 6-1.1-3-17 (b)



Budget Calendar

- On or before August 1, the county auditor shall provide assessed valuation information to the fiscal officer of each political subdivision of the county and to the Department of Local Government Finance.
IC 6-1.1-17-1



Comparing the Calendars

- As you can see, assessed values can be changed during the review process after the June 1, July 1, & August 1 dates have passed. This information will be used by the political subdivisions to begin the process to adopt a budget.
- The county auditor will certify a more accurate number later in the year when tax rates are to be developed.



Assessment Calendar

- IC 6-1.1-9-3 also allows an assessor to make a change to an assessment within three years after the return is filed; however, it requires a full & complete audit of the taxpayer's books in order to determine if substantial compliance guidelines are met so the requirements to change an assessment are more exact.



IC 6-1.1-16-1

- If the assessing official fails to change an assessment within the time prescribed, the assessed value claimed by the taxpayer is final.
- This section of the law is why it is very important for assessing officials to give notice of a change with the proper use of the Form 113/PP.



Penalties

- Return Not Filed by May 15 (up to June 14 with extension)
 - Penalty = \$ 25
- Return over 30 days late
 - Penalty = \$25 + 20% of taxes due
- Assessors do not have the statutory authority to waive penalties for the late filing of tax returns.



Penalties

- Assessors should be prepared to defend a challenge by the taxpayer that the return was filed timely once the tax statements are mailed.
- Sometimes the date that the taxpayer signed the return indicates a late filing.
- Other times the postmarked envelope should be attached to the form as evidence.
- Many assessors also place the date received on the return.



Amended Returns

- IC 6-1.1-3-7.5
- The return is filed by the taxpayer.
- The taxpayer files an amended return by writing **AMENDED** on top of the return.
- Legislation changed the filing period from six months to twelve months beginning with the assessment date of March 1, 2011. (For more information, see our June 1, 2011 memo.)



Amended Return Deadlines

- May 15 of the following year, if no extension is granted.
- Up to June 14 of the following year, if a full 30-day extension was granted or twelve months from original return's extended due date, if a partial extension was granted.



Amended Returns IC 6-1.1-3-7.5

- Taxpayer may claim any deduction or exemption that could have been claimed on the “original personal property return”.
- Taxpayer may only amend the original personal property return one time. The statutes do not allow a taxpayer to amend an amended return.



Amended Returns 50 IAC 4.2-1-1.1(k)

- 50 IAC 4.2-1-1.1 (k) defines an "Original personal property return" as a personal property tax return filed with the proper assessing official by May 15 or, if an extension is granted, the extended filing date.
- Late returns or returns filed within the 30 days after a Form 113/PP is sent, cannot be amended under IC 6-1.1-3-7.5. (See IBTR decision-Wayne Metals vs Wells Co. 10-2013)



Amended Returns

- A timely filed amended return becomes the taxpayer's assessment of record. The county assessor or the PTABOA has five months from the date that the amended return was filed to change the amended assessment and notify the taxpayer on a Form 113/PP.



Amended Returns

- If a taxpayer files an amended return after the statutory deadlines have passed, assessors are encouraged to notify the taxpayer on a Form 113/PP of the defect so the taxpayer could challenge, if desired.
- Is it required? The issue has not been challenged by an appeal yet.



Other Memorandums: Outdoor Advertising Signs

- In the 2012 legislation session, a bill was passed concerning the valuation of outdoor advertising signs. It set values for these signs similar to what was published in our 1989 version of our personal property rule (50 IAC 4.2). For more information, see our memo dated May 11, 2012.
- In the 2013 legislative session, the statute's expiration date was extended to July 1, 2017. For more info, see our memo dated June 5, 2013.



Other Memorandums:

PP – Solar Power Devices

- In the 2012 legislation session, a bill was passed concerning a deduction for solar power devices. The deduction is basically the difference between the assessed value with the device included and the assessed value without the device included. The deduction could be applied to real property, mobile/manufactured homes, personal property, or state distributable assessments.
- NOTE: For a personal property deduction, the device would have to power equipment.



Auditing A Personal Property Tax Return The Basic Steps



Classification of Assets

- Determine if the Asset is Personal Property
- Real vs. Personal Property (50 IAC 4.2-4-10)
- Excise Vehicles (IC 6-6-5-2)
- Intangible Computer Software (50 IAC 4.2-4-3)
- Pollution Control Equipment (IC 6-1.1-10-10)
- Not Placed In Service (50 IAC 4.2-6-1)
- Special Adjustments such as:
 - Special Tooling (50 IAC 4.2-6-2)
 - Permanently Retired Equipment (50 IAC 4.2-4-3)



Permanently Retired Equipment 50 IAC 4.2-4-3 (c) & (d)

- Permanently retired equipment is defined as being removed from the process or service use on or before the assessment date and is awaiting disposition.
- Its cost is reported & deducted back off of the pooling schedule and then re-valued on the Form 106 along with a detailed explanation.
- It is valued at its net scrap value or net sale value (not an automatic 10%).



Personal Property Not Place in Service

50 IAC 4.2-6-1

- Personal property not placed in service is defined as property which has not been depreciated and is not eligible for federal income tax depreciation.
- Construction in Process (CIP) is an example of equipment not placed in service. It is physically there on the assessment date but is not completely assembled and functioning.
- It is not reported in the pooling schedule and is valued at 10% of cost (Page 2 Form 103-Long).



Fully Depreciated Assets-Still In Use

50 IAC 4.2-4-3 (a)

- Fully depreciated personal property that has not been retired from use must be reported for assessment purposes.
- If the cost of these assets has been removed from the taxpayer's books & records or recorded at a nominal value, it should be added back as an adjustment in the space provided on the personal property tax return.



Assets With A Nominal or No Value

50 IAC 4.2-4-3 (e)

- Personal property that has been recorded on the books at a nominal or no value must be at its actual acquisition cost determined by reference to the insurable value in the year of acquisition.
- This includes the purchase or acquisition of a going-concern business.



Computer Equipment

50 IAC 4.2-4-3 (f) & (g)

- This section covers the valuation of computer equipment and software.
- It explains that the hardware is to be assessed as personal property.
- It explains that the operational software which is required to make the hardware function is assessed as personal property.
- It also explains that the application software is used to achieve a specific objective and is classified as an intangible asset.



Pooling of Assets FAQ

- Question: What if an assessor needs to calculate an estimated assessment and knows the cost and the date of acquisition but not the federal life of the asset, what pool should be used?
- Answer: Many assessors elect to use Pool 2 since the majority of the assets depreciated for federal tax purposes have a 7-year life.



Pooling of Assets

- Taxpayers are not required to explain the changes made on the pooling schedule from the prior year to the current year on Form 106.
- It is not required in the statutes or in our rules and assessors do not have the authority to create this policy in their jurisdictions.
- The assessor may request information from a taxpayer during the review of the current year's return on a case-by-case basis.



Reviewing Returns

- Many assessors have a standard procedure for conducting desk reviews of personal property tax returns.
- They check for errors in calculations.
- They compare the current year's return to the prior year's return.
- They compare the return with returns filed by similar businesses



Reviewing Returns

- The assessor reviews any exemptions, adjustments, or deductions claimed to verify that they comply with the rules & regulations.
- A claim for abnormal obsolescence should be checked to see if it complies with 50 IAC 4.2-9. The DLGF has released memorandums on this topic on August 21, 2009 and April 19, 2011. IBTR decisions are available as well. (Applied Extrusion Technologies & Koppers, Inc.)



Reviewing Returns – Abnormal Obsolescence

- The most common mistake made by a taxpayer when claiming an adjustment for abnormal obsolescence is that he calculates the true tax value and then calculates a factor to drive the true tax value lower without ever establishing the documented net realizable value (or market value). The adjustment is the difference between the two numbers if the market value is lesser than the true tax value.



Reviewing Returns

- Review the Form 103-N's & Form 103-O's
- Since both the owner and the possessor of the property should be filing a form, assessors should verify the information on the forms.
- Sometimes the forms are filed so that neither party is being assessed while other times, the forms are filed so that both parties are being assessed. If fully disclosed by the taxpayers, this error should be discovered and corrected.



Reviewing Returns

- Developing a system to verify that property has been properly assessed to the correct party is a very important part of the review process.
- One system used that seems effective is to copy the Form 103-N or O and to maintain a file. The assessor would then scratch the name of the business off once an assessment is received. After the filing date has passed, the remaining names would require further action (contact them or send an estimated assessment on the Form 113/PP).



Frequently Asked Question

- Question: How do I handle a taxpayer's claim that a double assessment has occurred?
- Answer: The IBTR recently ruled in the AEL Financial vs. Lawrence Co. decision (10-2013) that the remedy for a taxpayer to correct his assessment is to file a timely amended return. The Indiana Tax Court also ruled in the Will's Far-Go Coach Sales (847 N.E. 2d 1074) that double assessments cannot be corrected if not challenged in a timely manner so compliance with Indiana law is required in both cases.



Reviewing Returns With An Abatement Deduction

- While an in-depth discussion on the abatement process could cover a three-hour course of its own, there are things that we can discuss today to cover the process of reviewing a return that has an abatement deduction claimed on it.
- The first thing to understand is that an abatement is established at the local level by a designating body which is usually the county council, the town council, or the city council.



Reviewing Returns With An Abatement Deduction

- The taxpayer provides the designating body with a Form SB-1/PP to provide information to be used in the approval process.
- If desired, the designating body will proceed with a public hearing and adopt a resolution which declares the legal description of a piece of real estate to be an Economic Revitalization Area (ERA).
- The taxpayer can then begin installing the qualifying equipment.



Reviewing Returns With An Abatement Deduction

- Once the qualifying equipment is installed, it will be reported for taxation on the next personal property tax return (Form 103-Long) and the deduction will be claimed on the abatement deduction schedule (Form 103-ERA).
- Other abatement forms such as the Form 103-EL and the Form CF-1/PP are also a part of the forms related to this deduction.



Reviewing Returns With An Abatement Deduction

- Form 103-ERA: The important thing to understand about this form is that it is used to claim a deduction from the cost reported on the pooling schedule of the Form 103-Long.
- If a taxpayer reports a number greater on a particular line of the Form 103-ERA than what is reported on the pooling schedule of the Form 103-Long, that would require further consideration.



Reviewing Returns With An Abatement Deduction

- Form 103-EL lists the assets that the taxpayer is claiming an abatement deduction in the first year.
- An assessing official should review this list to verify that the assets qualify for the deduction.
- For a manufacturing abatement, the equipment that qualifies for abatement begins with the equipment that handles the raw material as it enters the first production step and ends with the equipment that takes the finished product away.



Reviewing Returns With An Abatement Deduction

- Form CF-1/PP is the form that the taxpayer files with the designating body annually. It acts as a report to show how the estimates listed on the Form SB-1/PP before the project began actually turned out once the project was complete.
- On page two of this form, the designating body **MAY** determine whether the taxpayer was compliant or not with their estimates before the project began.



Reviewing Returns With An Abatement Deduction

- Remember that IC 6-1.1-12.1-5.4 requires the taxpayer to file a timely return when claiming the abatement deduction so a return filed late which includes a Form 103-ERA should have the deduction denied immediately. (See IBTR decisions – HJM, LLC or Wayne Metals vs. Wells Co. 10-2013)
- IC 6-1.1-12.1-11.3 allows the designating body to hold a public hearing and adopt a resolution, if they wish to waive non-compliance and allow the deduction on the late return.



Burden of Proof on Personal Property Assessments

- Question: Would the statute concerning the shifting of the burden of proof ever apply to personal property assessments?
- Answer: No, IC 6-1.1-15-17.2 covers assessments determined by the county assessor such as real property assessments. Since Indiana's personal property system is a self-assessment system where the taxpayer determines his/her assessment, this section of the statutes would not be applicable.



Burden of Proof on Personal Property Assessments

- Answer – continued:
- IC 6-1.1-3-15 (c.) also permits the assessor to estimate an assessment when the taxpayer fails to file a return and then offers the taxpayer an opportunity to file a return that would replace that estimated assessment; therefore the burden of proving an estimated assessment was incorrect would be on the taxpayer.



Confidential information

- IC 6-1.1-35-9 affects:
 - All assessing officials, employees, & anyone under contract to any assessing official.
 - All information that is related to earnings, income, profits, losses, or expenditures.
- Confidential information; disclosure will result in loss of job.
- What's public information? A/V



Supplements to Personal Property Form

- Any supplemental information or forms attached to a personal property return (Form 102 or 103) that support the return are subject to same confidential standard as that for form itself.



Questions & Answers



Contact Us

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- Website: www.in.gov/dlgf
- “Contact Us”
<http://www.in.gov/dlgf/2338.htm>